

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CIVIL ACTION NO.: 1:24-cv-00133-MR

DAVID GORDON OPPENHEIMER,	)	
	)	
Plaintiff,	)	
vs.	)	<b>DEFENDANT’S MOTION TO</b>
	)	<b>COMPEL</b>
HIGHLAND FALLS COUNTRY CLUB, INC.,	)	
	)	
Defendant.	)	

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Defendant, Highland Falls Country Club, through undersigned counsel and pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 7.1 respectfully moves this Court for an Order compelling Plaintiff to fully respond to discovery. Defendant also moves this Court pursuant to Rule 37(a)(5) for an Order granting Defendant’s reasonable costs and attorney fees incurred in association with this Motion.

In support of this Motion, Defendant states as follows:

- 1) Defendant served Plaintiff through his attorneys, with Interrogatories and Requests for Production of Documents on June 27, 2024;
- 2) Plaintiff responded to those discovery requests on August 27, 2024, however, his responses were deficient;
- 3) Defendant’s counsel subsequently sent Plaintiff’s counsel a discovery deficiency letter on September 19, 2024. Specifically, Defendant was requesting supplementation by Plaintiff providing information concerning prior copyright and Digital Millennium Copyright Act (“DMCA”) settlements; information concerning income derived from copyright claims, settlements and verdicts in the last seven years; revenue for his photograph business during a

certain time period; and tax returns from 2016 to the present;

4) Counsel for the Defendant has also conferred with Plaintiff's counsel by way of telephone to resolve these issues and even entered into a Consent Protective Order, which specifically protected disclosure of these materials; and

5) Plaintiff has maintained his objections and refuses to produce the complete records and information requested.

Given the upcoming discovery deadlines in this matter, Defendant seeks an Order compelling full and complete responses to Defendant's First Set of Interrogatories and Request for Production of Documents to Plaintiff.

The undersigned certifies that they have conferred with counsel for the Plaintiff through written correspondence and multiple telephones conferences, and thus, made a good faith effort to resolve these issues without Court intervention. Defendant offers the accompanying brief and exhibits in support of this Motion detailing the discovery issues.

WHEREFORE, Defendant respectfully move the Court for an Order compelling the following:

1. that Plaintiff supplement his responses to discovery to provide full and complete response, including income derived from copyright and DMCA settlements, income derived from such claims, revenue from his photography business for a certain time period and tax returns from 2016 to the present; and

2. That Plaintiff pay Defendant's reasonable costs and attorney fees associated with this Motion.

This the 10<sup>th</sup> day of October, 2024.

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Plaintiff,

VS.

HIGHLAND FALLS COUNTRY CLUB, INC.,

Defendant.

## CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants: Dana A. LeJune ([dlejune@triallawyers.net](mailto:dlejune@triallawyers.net)), Evan Andersen [evan.andersen@sriplaw.com](mailto:evan.andersen@sriplaw.com) and I hereby certify that I have mailed the document to the following non-CM/ECF participants: NONE.

Respectfully submitted,

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